



MINUTES OF EXECUTIVE COMMITTEE MEETING HELD JANUARY 29, 2016 VIA TELECONFERENCE

I. Welcome and Introductions

Rich Jackson, Idaho, called the meeting to order at 11:04 AM EST. Greg Matson asked members and participants to introduce themselves, and confirmed the presence of a quorum. The following is a list of members and participants:

Julie Magee	Alabama Department of Revenue	Chris Coffman	Washington State Department of Revenue
Steve Cordi	District of Columbia Office of Tax and Revenue	Michael Fatale	Massachusetts Department of Revenue
Rich Jackson	Idaho State Tax Commission	Wood Miller	Missouri Department of Revenue
Mike Kadas, Lee Baerlocher, Gene Walborn	Montana Department of Revenue	Garth Spencer	Student at NYU
Ryan Rauschenberger, Matt Peyerl	North Dakota State Tax Commission	Karen Boucher	Deloitte
Gary Humphrey	Oregon Department of Revenue	Karl Frieden	Council on State Taxation
Nancy Prosser	Texas Comptroller of Public Accounts	Diann Smith	McDermott Will & Emery
John Valentine	Utah State Tax Commission		

II. Initial Public Comment Period

Karl Frieden, COST, expressed two concerns regarding the Proposed Sec. 17 Model Market Sourcing Regulations, which are outlined, among others, in a letter submitted to the Executive Committee. First, the Section 17 model market sourcing statute allows taxpayers to use a “reasonable approximation” method when the state or states of assignment of receipts cannot be determined. Mr.

Frieden would like the taxpayer to be permitted to change its method of reasonable approximation on a retroactive basis by amending open returns, particularly since the taxing agency is permitted to challenge taxpayers' methodology from prior open years. Second, when a taxpayer changes its method of reasonable approximation, Mr. Frieden believes it would be too burdensome to establish that the new methodology "improves the accuracy" of assigning the receipts. He argued the taxpayer should have to show only that the new method is reasonable.

III. Uniformity Item before the Executive Committee for Action: Draft Amendments to the Commission's General Allocation and Apportionment Regulations

At their last meeting, in Charleston, South Carolina, the Uniformity Committee voted to send the draft amendments to the Commission's General Allocation and Apportionment Regulations to the Executive Committee for consideration for Bylaw 7 hearing. Gary Humphrey, Oregon, noted that the Uniformity Committee has not met in the intervening time, and so has not been able to give full consideration to COST's comments. He recommended that those comments be considered as part of the public hearing process, for further analysis and input from the states and the hearing officer. Mr. Humphrey moved to approve the draft for public hearing. The motion passed by roll call vote, with one abstention.

Helen Hecht noted that the legal division has received some non-substantive corrections to the draft. These will be incorporated into the working draft. She appreciated the input, and asked the participants to point out any other errors they notice in the draft.

IV. Uniformity Committee Report: Request for Guidance on Model Whistleblower Statute Project

Mr. Miller advised the participants that a work group had been formed for the model whistleblower statute project, but, although it had held several conferences, the chair, Richard Cram, Kansas, was the only consistent state participant. At its fall meeting, the Uniformity Committee voted to discontinue the project; however, since they had previously sought guidance from the Executive Committee they asked it to weigh in on the decision. Mike Kadas, Montana, agreed with Mr. Jackson that the Executive Committee should honor the recommendation made by the Uniformity Committee.

Mr. Frieden commented that COST had no particular interest in the whistleblower portion of the project, and had been more interested in the initial false claims act project.

John Valentine, Utah, moved to ratify the decision of the Uniformity Committee to discontinue the project. The motion passed by roll call vote, with two abstentions.

V. Adjournment

The meeting adjourned at 11:40 AM Eastern time.